ORDER:

Challenging the proceedings dated 26.08.2005 in form-F issued by the fourth respondent calling upon the petitioner to show cause as to why an order requiring him to pay the damages as mentioned in Schedule-II thereof together with interest, should not be made, the present Writ Petition is filed.

The learned counsel for the petitioner contended that the petitioner filed the documents showing the title in respect of the property in question from 1885, much before the commencement of the Cantonment Act, 1924; that no enquiry was conducted while preparing the G.L. Register; that in a decision reported in 2002(5) ALD 532 (DB), a Division Bench of this Court held that 13 Mughalai villages in the Secunderabad do not belong to cantonment in view of the Notification No.41, dated 28.08.1906; earlier, proceedings were initiated in respect of the same property and they were dropped; the petitioner made an application for rectification of entry in respect of the present land in G.L. Register of the Cantonment whereunder a report was given that the records were not available; the proceedings under Section 5 of the Act are pending before culminating the proceedings; the impugned notice was issued without any details. The learned counsel further contended that the issuing authority has come to pre-conclusion and prejudged the issue.

The learned counsel appearing for the respondents contended that all the contentions in this Writ Petition can as well be submitted by way of reply to the impugned proceedings since the same is a show-cause notice; enquiries under Sections 5 and 7 of the Public Premises (Eviction of Un-authorised Occupants) Act, 1971 are entirely different and the respondents did not wait till the conclusion and culmination of enquiry under Section 5 of the Act.

The order under challenge is dated 26.08.2005. The authority and jurisdiction of the Estate Officer, who issued the notice, are not under challenge. It is only a show cause notice calling upon the petitioner to show cause on or before a particular date as to why the order requiring him to pay the damages together with interest can not be made. The contentions raised by the learned counsel for the petitioner are all relating questions of fact and therefore, they can be raised before the competent authority i.e. the Estate Officer. Since it is a show-cause notice only calling upon the petitioner to show cause why an order requiring him to pay the said damages together with interest can not be passed, it is always open for the petitioner to contend and raise all the issues before the authority.

In the above circumstances, it is appropriate to direct the petitioner to submit his explanation to the impugned show-cause notice dated 26.08.2005 and thereafter the Estate Officer shall pass appropriate orders thereon in accordance with law, after giving reasonable opportunity to the petitioner. Since time for submitting explanation expired, it is reasonable to grant two weeks' time from today to submit the explanation to the Estate Officer.

With the aforesaid observations, the Writ Petition is disposed of. No costs.

(K.C.Bhanu, J.)

08.09.2005

DRK

Issue copy by 12.09.2005

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DRK

THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION No. 19722 of 2005

Date: 08.09.2005

Between:

B.Puranmal, s/o. late Bhagwatilal,

R/o. 7 SRT Colony, Maredpally, Secunderabad

…Petitioner

and

1)The Union of India, rep. by its Secretary,

Ministry of Defence, New Delhi, & 4 others

…Respondents